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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1822 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RASIKLAL J DESAI

Versus

BAVLA NAGAR PANCHAYAT

Appearance:

1. Special Civil Application No. 1822 of 1991

MR SV RAJU for Petitioner No. 1

MR ANANT S DAVE for Respondent No. 1

RULE SERVED for Respondent No. 2

MR HS MUNSHAW for Respondent No. 3

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 10/07/2003

ORAL JUDGEMENT

The petitioner who was working as Secretary, Bavla Nagar Panchayat was sought to be reverted as Senior Clerk in the same Nagar Panchayat, in light of a direction from District Panchayat dated 27th February, 1971 (Annexure "A"). He therefore approached this Court seeking following reliefs:-

(A) To issue a Writ of Mandamus and/or Prohibition and/or any other writ, order or direction restraining the respondents, their servants etc. from reverting or removing the petitioner from the post of Secretary of Bavla Nagar Panchayat, Bavla, pursuant to letter dated 27.2.1991 issued by the respondent No.3 to respondent No.1;

(B) Pending admission, final hearing and disposal of this petition, to direct the respondents, their officers, agents etc. not to revert or remove the petitioner from the post of Secretary of Bavla Nagar Panchayat, Bavla.

An affidavit in reply sworn by one Bharatbhai N. Patel, Secretary of Bavla Nagar Panchayat, produced by Mr.Dave is taken on record.

When the matter is called out, learned Advocate for the parties are present. The petitioner has, along with his petition, produced copy of his Service Book. His service book reflects that he was born on 7th June, 1939 and that he joined service on 23.1.1960. Today is 10th July, 2003. The necessary inference is that the petitioner has crossed the age of superannuation. By virtue of interim order of this Court, the petitioner remained protected against reversion. The cause of action for this petition therefore does not survive. The petition has therefore become infructuous and stands disposed of accordingly. Rule is discharged with no order as to costs. Liberty to move this Court in case of difficulty is granted.

(A.L.Dave, J.)

*/Mohandas